

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

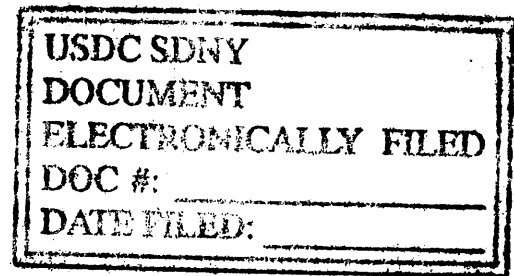
STEPHANIE JOHNSON

Plaintiff,

-versus-

CITY OF NEW YORK, et al.

Defendants.



No. 16 Civ. 9561

LORETTA A. PRESKA, Senior United States District Judge:

On January 22, 2020, the Court issued an order ruling on various motions in limine. (Dkt. no. 74.) In that order, the Court precluded plaintiff from calling Officer Richard Acosta as a trial witness under Fed. R. Evid. 403 because Acosta's deposition showed he has no knowledge of how plaintiff suffered the injury at issue in her suit, so his testimony had negligible probative value and would only waste time. (Id. at 3-4.)

Plaintiff has moved the Court to reconsider its decision precluding Acosta's testimony. (Letter dated Jan. 23, 2020 [dkt. no. 75].) Plaintiff contends that Acosta's deposition testimony and certain notes he recorded after the incident suggest that Acosta did in fact see what happened to plaintiff, and argues that the jury should be permitted to evaluate whether Acosta's denial of knowledge is credible. (Id.)

The Court declines to reconsider its previous ruling.

"[R]econsideration will generally be denied unless the moving

party can point" to matters "that might reasonably be expected to alter the conclusion reached by the court." Schrader v. CSX Transp., Inc., 70 F.3d 255, 257 (2d Cir. 1995). Nothing in plaintiff's submission alters the Court's previous finding that Acosta's testimony has negligible probative value and should be excluded to avoid wasting time. Specifically, that Acosta may not be a credible witness has minimal probative value because he will not be testifying in the first place. Plaintiff's argument that the jury might infer that Acosta is not credible in his testimony that he did not see the relevant events and thus that the jury should infer that Acosta did see the events and that such testimony would be adverse to defendants is too remote to have any probative value.

Plaintiff's motion is therefore DENIED.

Dated: New York, New York
January 24, 2020



LORETTA A. PRESKA
Senior U.S. District Judge